

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-384V

Filed: October 13, 2023

MARILYN DIXON HILL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Master Horner

*Emily Beth Ashe, Anapol Weiss, One Logan Square, 130 N. 18th Street, Suite 1600
Philadelphia, PA 19103, for petitioner.*

Madelyn Weeks, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On March 13, 2019, Marilyn Dixon Hill (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered Guillain-Barre Syndrome (“GBS”) and Chronic Inflammatory Demyelinating Polyneuritis (“CIDP”). (ECF No. 1.)

On April 14, 2023, a ruling on entitlement was issued, finding petitioner entitled to compensation for GBS. (ECF No. 77.) On October 13, 2023, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$637,213.42, including \$196,500.00 for pain and suffering, \$434,357.06 for lost wages, and \$6,356.36 for past unreimbursable medical expenses. (ECF No. 92.) In the Proffer, respondent represented that petitioner agrees with the proffered award. *Id.*

¹ Because this document contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the document will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755.

Based on the record as a whole, I find that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award petitioner a lump sum payment of \$637,213.42, representing \$196,500.00 for pain and suffering, \$434,357.06 for lost wages, and \$6,356.36 for past unreimbursable expenses, in the form of a check payable to petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Daniel T. Horner
Daniel T. Horner
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

MARILYN DIXON HILL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 19-384V

Special Master Daniel T. Horner

PROFFER ON AWARD OF COMPENSATION¹

I. Procedural History

On March 13, 2019, Marilyn Dixon Hill (“petitioner”) filed a petition for compensation (“petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34, *as amended*. Petitioner alleged that, as a result of receiving the influenza vaccine on November 10, 2010, she suffered from Guillain-Barre Syndrome (“GBS”) and Chronic Inflammatory Demyelinating Polyneuritis (“CIDP”). *See* Petition. On October 16, 2020, respondent filed a Rule 4(c) Report recommending against compensation in this matter. Petitioner filed expert reports from a neurologist, Frederick Nahm, M.D., Ph.D., on January 13, 2021, and August 20, 2021. On April 11, 2023, respondent filed an Amended Rule 4(c) report, concluding that petitioner suffered GBS as defined by the Vaccine Injury Table, within the Table

¹ This Proffer does not include attorneys’ fees and costs, which the parties intend to address after the Damages Decision is issued.

timeframe. On April 14, 2023, Special Master Horner issued a ruling on entitlement, finding that petitioner was entitled to compensation for a GBS Table injury.

II. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of **\$637,213.42**, for all damages, including \$196,500.00 representative of pain and suffering; \$434,357.06 representative of past lost wages; and \$6,356.36 representative of past unreimbursable medical expenses. This amount represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a) regarding petitioner's November 10, 2010, flu vaccination. Petitioner agrees.

III. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment, as described below, and requests that the Special Master's decision and the Court's judgment award the following: A lump sum payment of **\$637,213.42** in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

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Director
Torts Branch, Civil Division

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s/ MADELYN E. WEEKS
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Dated: October 13, 2023